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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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MORRISON & FOERSTER LLP  
1650 TYSONS BOULEVARD  
SUITE 300  
MCLEAN, VA 22102

EXAMINER
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JULES, FRANTZ F

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 08/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/088,734	BAIER, TORSTEN
	Examiner Frantz F. Jules	Art Unit 3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 and 7-10 is/are rejected.
- 7) Claim(s) 6 and 11-13 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1.) Certified copies of the priority documents have been received.  
2.) Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.) Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 6, 11-13 are objected to under 37 CFR 1.75(c) as being in improper form

because a multiple dependent claim cannot depend from another multiple dependent

claim. See MPEP § 608.01(n). Accordingly, the claims 6, 11-13 not been further

treated on the merits.

2. Claims 1-5, 7-10 are objected to because of the following informalities:

In claim 1, line 4, the word “the” should be changed to –a--.

In claim 1, line 6, the word “the” should be changed to –a—in front of the word location.

In claim 1, line 8, the word “the” should be changed to –a—in front of the word

remaining.

In claim 1, line 36, the word “was” should be changes to –is—to avoid ambiguity in the  
claim language.

In claim 5, line 7, the word “a” should be changed to –the--.

In claim 5, line 9, the word –the—should be added in front of the word predetermined.

In claim 5, line 12, the word “said” should be added in front of the word auxiliary.

It is noticed that claim 7 is written in three sections on three pages with two lines on  
page 17a. This is an improper claim format which must be corrected in a claim  
amendment. Similar problem exists with claim 9.

In claim 7, line 5, the word “the” should be changed to –a--.

In claim 7, line 7, the word “the” should be changed to –a--.

In claim 7, line 9, the word “the” should be changed to –a--.

In claim 7, line 19, the word "the" should be changed to --an--.

In claim 10, line 4, the word "a" should be changed to --the--.

In claim 10, line 6, the word --the--should be added in front of the word predetermined.

Appropriate correction is required.

Claims 2-4, and 8-9 are objected as being dependent upon objected base claims 1, and 7.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-5, and 7-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the drive" in line 19. There is insufficient antecedent basis for this limitation in the claim because the recitation of a drive structure has not been previously identified. Similar lack of antecedent basis term exists in claim 7, line 6.

In claim 3, line 4, the word "it" is confusing as it is unclear which particular one of the previously recited structures (control unit or output) applicant is referring to.

Claims 2, 4-5, 6-10 are rejected as being dependent upon rejected base claims 1, and 7.

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-5, and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over The Admitted Info (spec. page 1, lines 29-36, page 2, lines 1-29) in view of Schmidt (German Patent 1,237,612).

#### Claims 1-5

The Admitted info discloses a device for a rail vehicle having a control unit, which determines the distance between the rail vehicle and the respective intended next stop using a measured location measured value, which indicates the location of the rail vehicle, and predetermined, stored route data, determines the remaining traveling time to the next stop using a measured time measured value, which indicates the respective time, and a predetermined, stored timetable, and forms a recommended drive switching-off time taking account of the determined distance, of the determined remaining traveling time, of a speed measured value which indicates the speed of the rail vehicle, and predetermined coasting data , which describes the coasting behavior of the rail vehicle when the drive is switched off, from which drive switching-off time the rail vehicle will reach the intended next stop on time in accordance with the respective timetable without being driven, and having an output device which is connected to the control unit and is driven by it, and which produces a switching-off signal which indicates the recommended drive switching-off time .

The Admitted info discloses all of the features as listed above but does not disclose a

device for a rail vehicle in which a data input at which an actual value signal which indicates the actual drive switching-off time can be entered in the device, with the actual drive switching-off time indicating that time at which the drive was actually switched off after the switching-off signal was produced, and including a memory in which stores the actual drive switching-off time and the respectively associated, recommended drive switching-off time, for evaluation. The general concept of providing a data input at which an actual value signal which indicates the actual drive switching-off time can be entered in the device, with the actual drive switching-off time indicating that time at which the drive was actually switched off after the switching-off signal was produced, and including a memory in which stores the actual drive switching-off time and the respectively associated, recommended drive switching-off time, for evaluation in a drive switch-off device for a rail vehicle is well known in the art as illustrated by the German Patent 612 which disclose on page 2, lines 8-23, the teaching of providing the departure time at each departure from a stop which is compared automatically with the actual departure time and the deviation between the actual time and the predetermined time is transmitted and stored for comparison with a plurality of deviations and current switch off times and the switch off instruction is transmitted to the travel controller by the program unit at the switch-off time corresponding to the deviation by the action of the memory responding to the present deviation. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify The Admitted information to include the use of a data input at which an actual value signal which indicates the actual drive switching-off time can be entered in the device, with the actual drive switching-off

time indicating that time at which the drive was actually switched off after the switching-off signal was produced, and including a memory in which stores the actual drive switching-off time and the respectively associated, recommended drive switching-off time, for evaluation in his advantageous drive switching-off device as taught by the German patent 612 in order to reduce the risk of failure of drive switching-off in the event of malfunctioning of the system, improve on the accuracy of the drive switching-off time.

#### Claims 7-10

The Admitted info discloses a device for a rail vehicle having a control unit, which determines the distance between the rail vehicle and the respective intended next stop using a measured location measured value, which indicates the location of the rail vehicle, and predetermined, stored route data, determines the remaining traveling time to the next stop using a measured time measured value, which indicates the respective time, and a predetermined, stored timetable, and forms a recommended drive switching-off time taking account of the determined distance, of the determined remaining traveling time, of a speed measured value which indicates the speed of the rail vehicle, and predetermined coasting data , which describes the coasting behavior of the rail vehicle when the drive is switched off, from which drive switching-off time the rail vehicle will reach the intended next stop on time in accordance with the respective timetable without being driven, and having an output device which is connected to the control unit and is driven by it, and which produces a switching-off signal which indicates the recommended drive switching-off time .

The Admitted info discloses all of the features as listed above but does not disclose a

method for producing a switching-off signal for a rail vehicle in which the step of providing a data input at which an actual value signal which indicates the actual drive switching-off time can be entered in the device and including a memory in which stores the actual drive switching-off time and the respectively associated, recommended drive switching-off time, for computing a time difference value for producing a warning signal if the time difference value exceeds a predetermined threshold value is included. The general concept of including the steps of a data input at which an actual value signal which indicates the actual drive switching-off time can be entered in the device and including a memory in which stores the actual drive switching-off time and the respectively associated, recommended drive switching-off time, for computing a time difference value for producing a warning signal if the time difference value exceeds a predetermined threshold value in a method for producing a switching-off signal for a rail vehicle is well known in the art as illustrated by the German Patent 612 which disclose on page 2, lines 8-23, the teaching of providing the departure time at each departure from a stop which is compared automatically with the actual departure time and the deviation between the actual time and the predetermined time is transmitted and stored for comparison with a plurality of deviations and current switch off times and the switch off instruction is transmitted to the travel controller by the program unit at the switch-off time corresponding to the deviation by the action of the memory responding to the present deviation. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify The Admitted information to include the method step of providing a data input at which an actual value signal which indicates the actual drive

switching-off time can be entered in the device and including a memory in which stores the actual drive switching-off time and the respectively associated, recommended drive switching-off time, for computing a time difference value for producing a warning signal if the time difference value exceeds a predetermined threshold value in his advantageous drive switching –off device as taught by the German patent'612 in order to reduce the risk of failure of dive switching-off in the event of malfunctioning of the system, improve on the accuracy of the drive switching-off time.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Kondo et al, Roehl, Maisch, White et al, Kono et al, and Kobayashi et al are cited to show related method for producing switching-off signal including signal input device and data comparison.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz F. Jules whose telephone number is (703) 308-8780. The examiner can normally be reached on Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph S. Morano can be reached on (703) 308-0230. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Frantz F. Jules  
Examiner  
Art Unit 3617

**FRANTZ F. JULES**  
**PATENT EXAMINER**



FFJ

August 14, 2003